

JAN 15 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSEPH GIDEON HANCOCK,

Plaintiff - Appellant,

v.

MICHAEL L. FRIEDMAN; et al.,

Defendants - Appellees.

No. 07-15598

D.C. No. CV-05-03084-CW

MEMORANDUM^{*}

Appeal from the United States District Court
for the Northern District of California
Claudia Wilken, District Judge, Presiding

Submitted December 17, 2008^{**}

Before: WALLACE, TROTT, and RYMER, Circuit Judges.

Joseph Gideon Hancock, a California state prisoner, appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging deliberate indifference to his serious medical needs. We have jurisdiction under 28 U.S.C. §

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

1291. We review de novo a district court's dismissal under 28 U.S.C. § 1915A for failure to state a claim. *Resnick v. Warden Hayes*, 213 F.3d 443, 447 (9th Cir. 2000). We affirm.

The district court properly dismissed Hancock's deliberate indifference claims because his allegations of inadequate care state, at most, a claim of negligence. *See Wood v. Housewright*, 900 F.2d 1332, 1334 (9th Cir. 1990) ("While poor medical treatment will at a certain point rise to the level of constitutional violation, mere malpractice, or even gross negligence, does not suffice.").

Hancock's remaining contentions are unpersuasive.

AFFIRMED.